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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/931,660	08/16/2001	Shin Iima	450100-03393	3348
20999 7590 07/10/2007 FROMMER LAWRENCE & HAUG 745 FIFTH AVENUE- 10TH FL. NEW YORK, NY 10151			EXAMINER WU, RUTAO	
			ART UNIT 3628	PAPER NUMBER
			MAIL DATE 07/10/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/931,660

Applicant(s)

IIMA, SHIN

Examiner

Rob Wu

Art Unit

3628

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 20 2007 has been entered.

Response to Arguments

2. Applicant's arguments filed March 16 2007 have been fully considered but they are not persuasive.

The applicant amended claims 1-4, 7 and 8 to now recite the limitation of "one or more data units", wherein the transmitted data is comprised of a plurality of data units, each of which comprises an associated magnitude. The Applicant argues that Ferguson et al (U.S. Pat No. 5,819,092) does not teach or disclose such limitation. The Examiner respectfully disagrees.

Ferguson et al disclose, "Generally, and within the context of this application, an algorithm is conceived to be a self-consistent sequence of steps leading to a desired result. These steps are those requiring physical manipulations of physical quantities. Usually, though not necessarily, these quantities take the form of electrical or magnetic

Art Unit: 3628

signals capable of being stored, transferred, combined, compared, and otherwise manipulated. It process convenient at times, principally for reasons of common usage, to refer to these signals as bits, values, elements, symbols, characters, terms, numbers or the like." (col 6: lines 5-15) Ferguson also discloses in multiple places within the specifications that the charges or payments are based on the amount of data accessed or the size of the data accessed. (col 3: lines 62-63; col 30: lines 1-2; col 30: lines 42-43; col 31: lines 14-16; col 31: lines 43-46) Therefore, it can be seen that Ferguson is levying fees based on the size of the transferred data, i.e. the number of packets or bits transferred. It would then have been obvious at the time of the invention for one ordinarily skilled in the arts to understand that Ferguson indeed teaches one or more data units (packets or bits or data) and wherein the transmitted data is comprised of a plurality of data units, each of which comprises an associated magnitude.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S.

Pat No. 5,819,092 to Ferguson et al.

Referring to claims 1-3:

An information-processing apparatus for transmitting data through a network, comprising:

judgment means for forming a judgment as to which of at least two parties initiated an action for transferring one or more data units through said network; (col 8: lines 63-67; col 9: lines 1-2; col 13: lines 58-60)

multiplexing means for multiplexing a unit cost per unit data in said data and a first magnitude for each data unit in said data transferred through said network when said judgment formed by said judgment means judges that the action was initiated by a first party and for multiplexing a unit cost per unit data and a second magnitude for each data unit in said data transferred through said network when said judgment formed by said judgment means judges that the action was initiated by a second party; and (col 4: lines 58-60, 64-67; col 30: lines 28-30, 61-62; col 31: lines 2-7, lines 33-43)

Ferguson does not expressly disclose wherein the first magnitude is a positive magnitude indicating that the first party initiated the action of transferring data and the second magnitude is a negative magnitude indicating that the second party initiated the action of transferring data.

Ferguson discloses that the invention is capable of using a Fee Computation defined in the Computation Language of the present invention, the online service may charge or pay a user or content provider. (col 9: lines 2-4) As an example, Ferguson discloses a fixed fee can be levied on users whenever certain textual or graphic information is viewed or downloaded from the online service, (col 30: lines 28-30) and a fixed fee can be paid to a user in exchange for that user filling out a market survey

questionnaire. (col 30: lines 60-61) From this disclosure it can be seen that the service provider is the first party and the user is the second party. It is obvious from the user's point of view that if the user is getting paid for the first party initiated action of transferring the data (the service provider's questionnaire that the user fills out) then it is certainly a positive magnitude, the user is getting paid. Like wise, if the user is levied a fee for the second party initiated action of transferring data (the user views or download certain textual or graphic information) then it is a negative magnitude, the user is getting charged.

transmission means for transmitting said data multiplexed with said unit cost by said multiplexing means through said network. (col 4: lines 46-48; col 9: lines 5-9; col 11: lines 4-8)

wherein the transmitted data is comprised of a plurality of data units, each of which comprises an associated magnitude.

Ferguson et al disclose, "Generally, and within the context of this application, an algorithm is conceived to be a self-consistent sequence of steps leading to a desired result. These steps are those requiring physical manipulations of physical quantities. Usually, though not necessarily, these quantities take the form of electrical or magnetic signals capable of being stored, transferred, combined, compared, and otherwise manipulated. It process convenient at times, principally for reasons of common usage, to refer to these signals as bits, values, elements, symbols, characters, terms, numbers or the like." (col 6: lines 5-15) Ferguson also discloses in multiple places within the specifications that the charges or payments are based on the amount of data accessed

or the size of the data accessed. (col 3: lines 62-63; col 30: lines 1-2; col 30: lines 42-43; col 31: lines 14-16; col 31: lines 43-46) Therefore, it can be seen that Ferguson is levying fees based on the size of the transferred data, i.e. the number of packets or bits transferred. It would then have been obvious at the time of the invention for one ordinarily skilled in the arts to understand that Ferguson indeed teaches one or more data units (packets or bits or data) and wherein the transmitted data is comprised of a plurality of data units, each of which comprises an associated magnitude.

Referring to claims 4, 7 and 8:

An accounting-processing apparatus for settling accounting for data exchange through a network, comprising:

judgment means for forming a judgment as to which of at least two parties initiated an action for transferring one or more data units through said network by determining if a first magnitude or a second magnitude is multiplexed in said data, (col 8: lines 63-67; col 9: lines 1-2; col 13: lines 58-60; col 31:21-60; col 32: 1-32)

Ferguson does not expressly disclose wherein the first magnitude is a positive magnitude indicating that the first party initiated the action of transferring data and the second magnitude is a negative magnitude indicating that the second party initiated the action of transferring data.

Ferguson discloses that the invention is capable of using a Fee Computation defined in the Computation Language of the present invention, the online service may charge or pay a user or content provider. (col 9: lines 2-4) As an example, Ferguson discloses a fixed fee can be levied on users whenever certain textual or graphic

information is viewed or downloaded from the online service, (col 30: lines 28-30) and a fixed fee can be paid to a user in exchange for that user filling out a market survey questionnaire. (col 30: lines 60-61) From this disclosure it can be seen that the service provider is the first party and the user is the second party. It is obvious from the user's point of view that if the user is getting paid for the first party initiated action of transferring the data (the service provider's questionnaire that the user fills out) then it is certainly a positive magnitude, the user is getting paid. Like wise, if the user is levied a fee for the second party initiated action of transferring data (the user views or download certain textual or graphic information) then it is a negative magnitude, the user is getting charged.

accounting means for determining the party determined by said judgment means to be a side initiating an action for transferring the one or more data units through said network to settle accounting for said data transferred through said network. (col 7: lines 29-31; col 9: lines 2-5; col 10: lines 13-14)

wherein the transferred data is comprised of a plurality of data units, each of which comprises an associated magnitude.

Ferguson et al disclose, "Generally, and within the context of this application, an algorithm is conceived to be a self-consistent sequence of steps leading to a desired result. These steps are those requiring physical manipulations of physical quantities. Usually, though not necessarily, these quantities take the form of electrical or magnetic signals capable of being stored, transferred, combined, compared, and otherwise manipulated. It process convenient at times, principally for reasons of common usage,

to refer to these signals as bits, values, elements, symbols, characters, terms, numbers or the like." (col 6: lines 5-15) Ferguson also discloses in multiple places within the specifications that the charges or payments are based on the amount of data accessed or the size of the data accessed. (col 3: lines 62-63; col 30: lines 1-2; col 30: lines 42-43; col 31: lines 14-16; col 31: lines 43-46) Therefore, it can be seen that Ferguson is levying fees based on the size of the transferred data, i.e. the number of packets or bits transferred. It would then have been obvious at the time of the invention for one ordinarily skilled in the arts to understand that Ferguson indeed teaches one or more data units (packets or bits or data) and wherein the transmitted data is comprised of a plurality of data units, each of which comprises an associated magnitude.

Referring to claim 5:

An accounting-processing apparatus according to claim 4, further comprising:

First acquisition means for acquiring an amount of data exchange through said network; and (col 3: lines 62-63; col 18: lines 36-37; col 30: lines 1-2, 42-43)

Second acquisition means for acquiring a unit price per unit data for data exchanged through said network, (col 3: lines 62-63; col 18: lines 36-37; col 30: lines 1-2, 42-43)

Wherein said accounting means computes a price of transferred data on the basis of an amount of data acquired by said first acquisition means and a unit price acquired by said second acquisition means. (col 3: lines 62-63; col 18: lines 36-37; col 30: lines 1-2, 42-43)

Referring to claim 6:

Art Unit: 3628

An accounting-processing apparatus according to claim 4 wherein said second acquisition means further acquires a sign of said unit price, and said accounting means drives said transmission side or said reception side determined to be a side not initiating an action for transferring data through said network to settle accounting in case said sign is negative. (col 4: lines 58-60, 64-67; col 30: lines 28-30, 61-62; col 31: lines 2-7, lines 33-43)

the examiner is considering, based on the specifications portion of the applicant's application, that if data was transferred with a negative value, then initiating side would not be levied a charge or be paid an amount of fee; if data was transferred with a positive value, then the initiating side would be levied a charge and the non-initiating side would not be levied a charge or be paid an amount of money. A couple of examples are provided by Ferguson's patent to illustrate the concept. Users can be levied a fee for information viewed or downloaded and the provider can be paid a fee for users accessing their information. In this case, the users initiated the transferring with a positive value. A provider can be levied a fee for users viewing or downloading their information. In this case, the users initiated the transferring with a negative value.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rob Wu whose telephone number is (571)272-3136.

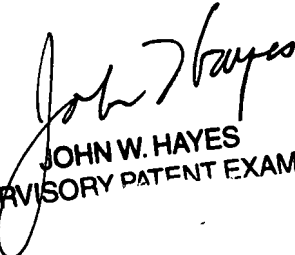
The examiner can normally be reached on Mon-Fri 8-5.

Art Unit: 3628

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hayes can be reached on (571)272-6708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

rw


JOHN W. HAYES
SUPERVISORY PATENT EXAMINER